

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
WRHC Broadcasting Corp.	)	File Number EB-02-TP-235
WRHC(AM), 1550 kHz	)	NAL/Acct.No.200232700007
Miami, Florida	)	FRN No. 0005-0123-56
	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Released: May 7, 2002**

By the Enforcement Bureau, Tampa Office:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture, we find that WRHC Broadcasting Corp. (“WRHC”), licensee of WRHC in Miami, Florida, apparently violated Section 11.35(a) of the Federal Communications Commission’s (“FCC”) Rules by failing to have Emergency Alert System (“EAS”) equipment in operation.<sup>1</sup> We conclude that WRHC is apparently liable for a forfeiture in the amount of four thousand dollars (\$4,000).

**II. BACKGROUND**

2. On March 28, 2002, agents from the FCC Enforcement Bureau’s Miami and Tampa Offices inspected radio station WRHC in Miami, Florida and found that the EAS equipment, while installed in an equipment rack at the studio, was not operational. A review of the station logs showed no evidence that WWFE had ever conducted any type of EAS tests, nor did the logs have any entry regarding the operation or repair of the EAS equipment.

**III. DISCUSSION**

3. Section 11.35(a) of the Rules requires all broadcast stations to ensure that EAS equipment is installed so that the monitoring and transmitting functions are available during the times the station is in operation.<sup>2</sup> At the time of inspection, the EAS equipment was not operational. The station logs showed no evidence that the equipment had been taken out of service for repair nor that tests had ever been made.

4. Based on the evidence before us, we find that on March 28, 2002, WRHC willfully<sup>3</sup> violated

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<sup>1</sup> 47 C.F.R. § 11.35(a)

<sup>2</sup> *Id.*

<sup>3</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that “[t]he term ‘willful,’ when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act

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Section 11.35(a) of the Rules<sup>4</sup> by failing to provide operational EAS equipment.

5. Pursuant to Section 1.80(b)(4) of the Commission's Rules, the base forfeiture amount for the violation cited in this notice is \$8,000.<sup>5</sup> Section 503(b)(2)(D) of the Act requires us to take into account "... the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require."<sup>6</sup> Regarding the EAS violation, because WRHC shared EAS equipment with co-located station WWFE, a downward adjustment of the forfeiture amount to \$4,000 for the EAS violation is warranted. Considering the entire record and applying the statutory factors listed above, this case warrants a \$4,000 forfeiture.

#### IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Communications Act of 1934, as amended,<sup>7</sup> and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,<sup>8</sup> WRHC Broadcasting Corp. is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of four thousand dollars (\$4,000) for willful violation of Section 11.35(a) of the Commission's Rules.<sup>9</sup>

7. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules,<sup>10</sup> within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, WRHC Broadcasting Corp. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

8. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment must include the FRN and NAL/Acct. No. referenced in the letterhead above.

9. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12<sup>th</sup> Street, SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. and FRN referenced in the letterhead above.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period;

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...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

<sup>4</sup> 47 C.F.R. § 11.35(a)

<sup>5</sup> 47 C.F.R. § 1.80(b)(4)

<sup>6</sup> 47 U.S.C. § 503 (b)(2)(D)

<sup>7</sup> 47 U.S.C. § 503(b).

<sup>8</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80.

<sup>9</sup> 47 C.F.R. § 11.35(a)

<sup>10</sup> 47 C.F.R. § 1.80.

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(2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

11. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>11</sup>

12. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail Return Receipt Requested to WRHC Broadcasting Corp. at 330 S.W. 27<sup>th</sup> Avenue #207, Miami Florida 33135.

FEDERAL COMMUNICATIONS COMMISSION

Ralph M. Barlow  
District Director, Tampa Office  
Enforcement Bureau

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<sup>11</sup> See 47 C.F.R. § 1.1914.